

*Swain, J*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

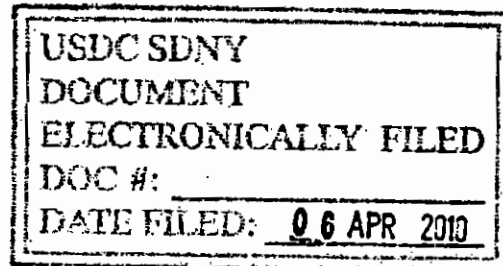
LUCKY BRAND DUNGAREES, INC.,  
LIZ CLAIBORNE, INC.,

Plaintiffs,

vs.

ALLY APPAREL RESOURCES LLC d/b/a  
GET LUCKY, KEY APPAREL  
RESOURCES, LTD., MARCEL FASHION  
GROUP, INC., and EZRA MIZRACHI,

Defendants.



Civil Action No. 05 CV 6757 (LTS) (MHD)

**PRE-TRIAL STIPULATION AND ORDER**

The undersigned counsel for the parties stipulate to the authenticity and admissibility of Defendants' Exhibits IV through JG, which shall be admitted into evidence at the trial of this matter. Further, counsel stipulates that the following statement shall be read to the jury and shown to a witness if that is appropriate under the Federal Rules of Evidence:

In the interest of avoiding the inconvenience and expense of calling Thomas Garner, an employee of plaintiff Lucky Brand Dungarees, Inc., to testify at trial, the parties in this case stipulate that if called to testify, Mr. Garner would state the following facts:

1. I am the Director of Graphic Design for Lucky Brand Dungarees, Inc. ("Lucky Brand") and have held that position for approximately 10 years. There are about 10 graphic artists in the Lucky Brand Art Department and we occasionally use freelancers.

2. At the instruction of counsel, I located and deleted from the Art Department computer system in February of 2009 certain computerized graphic designs, some of which included the words "Get Lucky."

3. I also gave to counsel on March 2, 2009 the notebooks which contained the thumbnail sketches of graphic designs. Those can best be described as pages that look like a stamp collection where various graphic designs are captured in miniature with sometimes 15 to 25 graphic designs per page.

4. I understand that they then removed the pages that contained the problematic art designs and "defaced" the designs so that they would no longer be useable. The pages have now been returned to the thumbnail notebooks, but as described, the problematic graphic code thumbnail is no longer useable. The thirteen exhibits marked as Defendants' Exhibits IV through JG is a copy of what is now in the thumbnail notebooks. That permitted us to save all of the other artwork.

Dated: March 30, 2010

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*Attorneys for Defendants Ally Apparel  
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and Ezra Mizrahi*

SO ORDERED: 

4/5/2010